"Sec. 61. Whenever the council of said city shall deem it expedient to cause any street or alley in said city or portion thereof to be paved, curbed, or macadamized, or otherwise improved in a permanent manner, it shall order the work done in the following manner and upon the following terms: The contract for such paving or other improvements shall, after due advertisement in which the council shall reserve the right to reject any and all bids, be let to the lowest responsible bidder. The contractor shall look only to the city for the payment of the work, and in no sense to the abutting land owners, except as hereinafter provided. The total cost of grading and paving or otherwise improving any such street or alley (with the exception that where a street is occupied by the street car tracks or other railways, such cost of opening or otherwise improving the distance between the rails and two additional feet outside of each rail, shall be borne and paid entirely by the street car or other railway company operating such street or other railways, unless otherwise provided by the franchise of such street car or other railway company granted previously to the passage of this act), shall be borne by the owners of the land abutting upon said street, alley or portion thereof, according to the following plan, that is to say: Payment is to be made by all land owners on either side of such portion of a street or block so paved or improved in such proportion of the total cost, less the portion, if any, chargeable to such street or other railway company, as the frontage in feet on his land so abutting bears to the total frontage of all lands so abutting on such street, alley or portion thereof so paved or improved as aforesaid. The cost of such paving or improvement chargeable to the abutting owners under this section is not to include any portion of the amount paid for paving or squares at intersection of streets, which shall be borne and paid by the city, except as otherwise herein provided.

"When the paving of any street, alley or portion thereof shall have been let to contract and the work done as hereinbefore provided, it shall be the duty of the engineer of said city to cause the several frontages abutting thereon to be measured, and to

calculate the assessment upon each and every land owner so abutting and to certify the same to the council showing the proper amount to be determined, as provided in the foregoing plan. It shall be the duty of the council to examine and compare such assessment, amounts and names so certified to it, and thereupon give notice by publication once a week for two consecutive weeks in some newspaper of general circulation in said city, that an assessment under this act is about to be laid against the abutting property for paving or improvements done on said streets or alleys, describing the location of such paving or improvements, and any owner or owners thereof shall have the right to appear before said council, within two weeks from the first publication thereof, and move to correct an apportionment or assessment excessive or improperly made as charged, which correction said council shall have the power to make according to the intent of this act, and if found to be correct or when corrected by the council as aforesaid, it shall enter the same, together with a description of the lots of land as to location, frontage, depth and ownership so far as the same may be ascertained, upon its records and shall enter in its records that such owners and lots be assessed and chargeable with the amount so ascertained to be borne by them respectively; and when so approved, certified and entered on record the same shall be and constitute an assessment against said owners and lots for such respective amounts. And it shall be the duty of the council to immediately certify such assessment to the treasurer for collection as herein provided, and a copy of said order shall be certified by the city clerk to the clerk of the county court of Kanawha county, who shall record and index the same in the proper trust deed book in the name of each person against whose property assessments appear therein. The amount so assessed against said abutting land owners shall be paid in ten payments, as follows: That is to say, one-tenth of said amount, together with interest on the whole assessment, shall be paid into the city treasury, before the first day May next after said work is completed, and said assessments have been certified to the county clerk. And a like one-tenth, together with interest for one year upon the whole amount remaining unpaid on or before the first day of May in each succeeding year

thereafter until all has been paid, and each of said installments of one-tenth beginning with the first shall bear interest on the amount of said installments at six per centum per annum from the date of record of same in the county clerk's office until paid; *provided, however*, that any abutting property owner so liable for any portion of the cost of such paving shall have the right at any time after the same is certified as aforesaid to the treasurer for collection to anticipate the payment of any or all of said assessments and shall be allowed to pay the face of said assessment with interest at six per cent per annum only from the time of recordation to the time of payment. To each of such installments of assessments remaining unpaid in the treasurer's hands on the day herein specified for the payment thereof, a penalty of ten per centum on the principal sum shall be added and any assessment so remaining unpaid in the treasurer's hands on such date, shall be taken up on such settlements had with the treasurer on such dates, and thereupon such assessments shall be placed with the penalty added thereto, in the hands of the city collector to be treated and considered, and payment thereof enforced in all respects as hereinbefore provided for the collection of taxes due the city, and they shall be a lien upon the property liable therefor the same as taxes which lien may be inforced in the same manner as provided for taxes. The lien hereinafter provided for shall have priority over all other liens except those for taxes due the state and shall be on a parity with taxes and assessments due the city. Whenever all such assessments for paving, sewerage, macadamizing or other improvements shall be paid in full to the treasurer, he shall deliver to the party paying the same a release of the lien therefor, which may be recorded in the office of the clerk of the county court of Kanawha county as other releases of liens, and whenever any such assessment shall not be in the hands of the treasurer for collection, but the same shall be shown to the satisfaction of the city auditor or other official performing the duties of auditor, to have been paid in full to any officer entitled to receive the same, such auditor or the mayor may in like manner execute such release."

"Sec. 63. Whenever it is deemed expedient by the council of said city to provide for the grading, paving, sewering or

macadamizing, or otherwise improving any street or alley therein to be paid for in whole or in part by special assessment, said council shall declare by resolution, by aye and no vote, the necessity of such improvement. At the time of passage of said resolution the said council shall have on file in the office of the city clerk plans, specifications, estimates and profiles of the proposed improvements showing the proposed grade of the street and improvements, after completion, with reference to the property abutting thereon, which plans, specifications, estimates and profiles shall be open for the inspection of all persons interested. Said resolution shall determine the general nature of the improvements, what shall be the grades of the street, alley or other public place to be improved, as well as the grade or elevation of the curb, and said council shall approve the plans, specifications, estimates and profiles for the proposed improvement. The council shall also determine in said resolution the method of paying for the work contemplated in said plans and specifications, whether by an appropriation from the funds in the treasury unappropriated, or whether bonds shall be issued in anticipation of the collection of special assessments, to be made against the abutting property owners, as provided for in section sixty of this act. Said resolution shall further show the approximate estimated cost of said proposed improvement per front foot, and shall fix a date at some meeting of the council, on which the owners of property to be assessed for such improvement may appear and protest against the same or be otherwise heard in reference thereto. Assessment shall be payable in ten installments as provided for in said sixty and sixty-first sections. The resolution herein provided for declaring the necessty for said improvement shall be published at least once a week, for two successive weeks after its adoption, in some newspaper of general circulation in the city and an affidavit of the publisher showing publication for such time together with a copy of said notice attached, shall be filed with the city clerk of the said city and spread upon the record of the minutes of the next meeting of the council, said resolution shall be in effect from and after the first publication thereof as herein provided for."

"Sec. 64. *A notice of the passage of the resolution required* in the last preceding section, embodying a copy of said resolution, *shall be served upon the owner of each piece of property to be assessed*, said service to be made in manner provided by this act for serving notices herein required; *provided*, that if it appears by the return, in any case, that the owner can not be found, then a notice of the passage of said resolution shall be published in some newspaper of general circulation in said city once a week for two consecutive weeks, *and such notice*, whether by services or publication, *shall be completed at least three days before said improvement is begun or the assessment is levied*, and the return of the officer serving such notice or a certified copy of said return, or when published, the certificate of the publisher of said newspaper shall be *prima facie* evidence of the service of the notice as herein required. Notice upon infants may be served on their guardian, and upon insane persons, by their committee."

"Sec. 67. *At the expiration of not less than three days* from the time of the giving and publication of the notices as provided for in section sixty-four *the council shall sit* at the time and place fixed *for the purpose of hearing all property owners* to be affected with reference to the proposed improvements *and shall hear and consider any objections thereto; and council shall thereupon determine whether it will proceed with the proposed improvements or not;* and, if it decides to proceed therewith, an ordinance for the purpose shall be *passed;* said ordinance shall set forth the streets and alleys upon which the abutting property is to be assessed for the improvements and shall contain a statement of the general nature of the improvements, and the character of the materials which may be bid upon therefor, of the mode of payments therefor; a reference to the resolution therefor passed for said improvement, giving the date of its passage and a statement of the intention of the council to proceed therewith in accordance with said resolution and in accordance with the plans, specifications, estimates and profiles provided for said improvements. In setting forth the lots and lands abutting upon the improvement it shall be sufficient to describe them as the lots and lands bounding and abutting upon said improvements between and including the termini of said improvements, or by the description by which they are described on the land

books of the county of Kanawha, and this rule of description shall apply in all proceedings in which lots or lands are to be charged with a special assessment."

"Sec. 85. In addition to the method provided for paving streets, by section sixty-one of the charter of the city of Dunbar, the council may order any block, street, avenue, or alley, or portion thereof, to be paved or otherwise permanently improved, and the council may order the mayor and city clerk to issue to the contractor doing the paving, or other permanent improvement, a certificate for each installment of the amount of the assessment to be paid by the owner of any lot or fractional part thereof fronting on such street, avenue or alley, and the amount specified in said assessment certificate shall be a lien as aforesaid in the hands of the holder thereof upon the lot or part of a lot fronting on such street, avenue or alley and such certificate shall draw interest from the date of said assessment and the payment may be enforced in the name of the holder of said such certificate by proper suit in equity in any court having proper jurisdiction to enforce such lien, and the council shall fix the amount of such assessment, advertise for bide and do all things in connection therewith as is provided for paving or permanently improving any street or alley or portion thereof in section sixty-one except that in fixing the amount of such assessments the cost of pasing the street intersections shall be included and the proportionate part thereof shall be assessed against each lot owner; *provided;* that the cost of not more than one intersection shall be assessed against the lots situated between any two cross streets; and such certificates shall be issued in the same number of installments and payable at the same time as other paving or permanent improvements are provided to be paid for and shall be a lien in the hands of the holder thereof upon the particular lot against which they are assessed in the same way and manner as provided for assessments made under section sixty-one of said charter; and nothing contained in this act or in any general law shall be construed as imposing a time limit upon the enforcement by appropriate suit of any lien for public improvements made hereunder, and, *provided, further,* that no error in the publication of any notice required hereunder shall in any way affect the validity of the certificates herein provided for.

"Such certificates as may be issued pursuant to the foregoing section shall contain a provision to the effect that in the event of default in the payment of any one of said certificates, when due and such default shall continue for a period of sixty days, then all unpaid certificates shall become due and payable and the holder of said certificates may proceed to collect all of such unpaid certificates in the manner hereinbefore provided.

"*Provided*, that no street, avenue or alley shall be paved or otherwise permanently improved pursuant to this section except and unless two-thirds of all the members elected to council shall concur therein."